

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 3:01 CV 1568 (SRU)
)	
RALPH BELLO; VERA BELLO; VERA)	
ASSOCIATES LIMITED PARTNERSHIP;)	
REAL PROPERTY ADDRESSED AT)	
16-20 ELM STREET, WEST HAVEN,)	
CONNECTICUT; and THE)	
TORRINGTON COMPANY,)	
)	
Defendants.)	

AMENDED COMPLAINT

Plaintiff, the United States of America, by the authority of the Attorney General, for and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), hereby amends its Complaint and alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff, the United States of America, brings this civil action under Sections 107(a), 107(l)(4), and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9607(a), 9607(l)(4) and 9613(g)(2), for the recovery of response costs incurred and to be incurred by the United States at and in connection with the National Oil Services Superfund Site in West Haven, Connecticut ("the Site").

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and Section 113(b) of CERCLA, 42 U.S.C. § 9613(b).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c), and

Sections 113(b) and 107(l)(4) of CERCLA, 42 U.S.C. §§ 9613(b) and 9607(l)(4), because the release or threatened release of hazardous substances that gives rise to these claims occurred in this district and because the Site is located in this district.

PARTIES

4. Plaintiff is the United States of America, acting at the request of the United States Environmental Protection Agency (EPA), an agency of the United States.

5. Individual defendants Ralph and Vera Bello, husband and wife, are residents of the State of Connecticut, and general partners in Vera Associates Limited Partnership.

6. Defendant Vera Associates Limited Partnership is a partnership organized under the laws of Connecticut.

7. Defendant The Torrington Company ("Torrington") is a corporation organized under the laws of the State of Delaware.

8. Each defendant at relevant times was a resident of, did business in, and/or transacted business with companies in, the State of Connecticut.

9. Each defendant is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

10. The real property addressed at 16-20 Elm Street, West Haven, Connecticut, is named as an in rem defendant pursuant to Section 107(l) of CERCLA, 42 U.S.C. § 9607(l).

GENERAL ALLEGATIONS

11. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

12. Defendants Ralph and Vera Bello acquired ownership of the Site in 1973.

In 1990, they transferred that ownership to Vera Associates Limited Partnership ("Partnership").

13. From 1982 to 1997, Ralph and Vera Bello, and then the Partnership, leased the Site to National Oil Services, which operated a waste oil storage, treatment, transfer, recycling and disposal facility at the Site throughout that time.

14. At relevant times, The Torrington Company sent waste oil and water soluble oil to the Site from its facilities in Torrington, Morris, Thomaston, Waterbury, New Britain, and Newington, Connecticut, and therefore by contract, agreement or otherwise, Torrington arranged for disposal or treatment of, or arranged with a transporter for transport for disposal or treatment of, hazardous substances owned or possessed by Torrington that were disposed of at the Site.

15. Upon leaving the Site in 1997, National Oil left on-site four large storage tanks containing approximately 500,000 gallons of oil, wastewater and sludge contaminated with hazardous substances. A National Oil subsidiary operating on-site also left several hundred small-volume containers of laboratory chemicals on-site.

16. At the request of the Connecticut Department of Environmental Protection, EPA investigated the conditions at the Site, and concluded that hazardous substances at the Site, including methylene chloride and other halogenated solvents in waste oils, sulfuric acid, hydrochloric acid, nitric acid, chromic acid, sodium hydroxide and ether, posed a threat to human health and the environment.

17. During 1998, pursuant to Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), EPA conducted a removal action at the Site within the meaning of Section 101(23) of CERCLA, 42 U.S.C. § 9601(23). EPA's removal action consisted primarily of emptying and cleaning the above ground storage tanks, and disposing off-site the wastewater, waste oil and sludge materials

containing hazardous substances. Those materials disposed off-site included 104,000 gallons of contaminated waste oil, 140,000 gallons of contaminated wastewater, 485 tons of contaminated sludge, 45 drums of contaminated oil and process chemicals, at least 200 small-volume laboratory chemicals; and 30 cubic yards of contaminated debris.

18. EPA spent approximately \$1.1 million in conducting its removal action at the Site. To date, the United States has incurred over \$1.6 million in response costs at and in connection with the Site.

19. Section 107(l)(1) of CERCLA, 42 U.S.C. § 9607(l)(1), provides, inter alia, that all response costs for which a person is liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), shall constitute a lien in favor of the United States upon all real property and rights to such property which belong to such person and are subject to a removal action.

20. On October 8, 1998, EPA perfected its Superfund Lien on the Site pursuant to Section 107(l)(1) of CERCLA, 42 U.S.C. § 9607(l)(1), by recording that Lien in the City Clerk's Office in West Haven, Connecticut.

CLAIM FOR RELIEF

21. Paragraphs 1 through 20 are realleged and incorporated herein.

22. The release or threatened release of hazardous substances into the environment at the Site, within the meaning of Section 101(14) and (22) of CERCLA, 42 U.S.C. § 9601(14) and (22), has caused the United States to undertake response actions at the Site and to incur response costs at and in connection with the Site, within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

23. Pursuant to Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), the United States has incurred response costs at and in connection with the Site. Plaintiff will continue to incur response costs in connection with the Site.

24. The response costs incurred by the United States at and in connection with the Site were incurred in a manner not inconsistent with the National Contingency Plan, as set forth in 40 C.F.R. Part 300.

25. Defendants Ralph and Vera Bello were owners or operators of the Site at the time of disposal of hazardous substances, and are therefore liable to the United States under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

26. Defendant Vera Associates Limited Partnership is a current owner or operator of the Site, and is therefore liable to the United States under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

27. Defendants Ralph and Vera Bello, as general partners of Vera Associates Limited Partnership, are liable as current owners or operators of the Site, and are therefore liable to the United States under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

28. Defendants Ralph and Vera Bello and Vera Associates Limited Partnership were also owners of the Site at the time plaintiff's Superfund Lien arose.

29. The response costs constituting the Superfund Lien may be recovered in an action in rem before this Court, pursuant to Section 107(l)(4) of CERCLA, 42 U.S.C. § 9607(l)(4).

30. In rem defendant 16-20 Elm Street, West Haven, Connecticut, is liable to the

United States under Sections 107(a) and 107(l) of CERCLA, 42 U.S.C. §§ 9607(a) and 9607(l).

31. Defendant The Torrington Company, at relevant times, by contract, agreement or otherwise, arranged for disposal or treatment of, or arranged with a transporter for transport for disposal or treatment of, hazardous substances owned or possessed by Torrington that were disposed of at the Site, and Torrington is therefore liable, jointly and severally, to Plaintiff pursuant to Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), for all of Plaintiff's response costs incurred in connection with the Site, and pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), for all of Plaintiff's future response costs incurred in connection with the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court:

1. Pursuant to Sections 107(a) and 113(g)(2) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(g)(2), enter judgments and declaratory judgments against defendants Ralph and Vera Bello, and Vera Associates Limited Partnership, jointly and severally, in the amount of the value of the Site in favor of plaintiff United States in partial reimbursement for response costs incurred and to be incurred by plaintiff at and in connection with the Site;

2. Pursuant to Sections 107(a), 107(l) and 113(g)(2) of CERCLA, 42 U.S.C. §§ 9607(a), 9607(l) and 9613(g)(2), enter a judgment and declaratory judgment in favor of plaintiff against in rem defendant 16-20 Elm Street, West Haven, Connecticut, in the amount of response costs incurred and to be incurred by plaintiff at the Site that are secured by plaintiff's lien on that real property filed pursuant to Section 107(l)(4) of CERCLA, 42 U.S.C. § 9607(l)(4);

3. Order that the real property known as 16-20 Elm Street, West Haven,

Connecticut, be sold and that the proceeds from such sale be paid to the United States in reimbursement of response costs covered by its Superfund Lien;

4. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), enter a judgment against The Torrington Company, jointly and severally, in favor of Plaintiff for all response costs incurred by Plaintiff in connection with the Site;

5. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), enter a declaratory judgment on liability against The Torrington Company, jointly and severally, in favor of Plaintiff for all future response costs incurred by Plaintiff in connection with the Site; and

6. Grant such other relief as this Court may deem just and proper.

Respectfully submitted,

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